

Step 1 - MDOT Base Goal Setting (FFY 2005 Goal = 10.73%)

Base calculations: The Numerator portion represents the total number of DBE firms that attempted to participate on MaineDOT projects as reported by Primes, or as evidenced by submitting bids as Primes. The Denominator portion represents the universe of all firms (including DBE firms) that attempted to participate on MaineDOT projects, also as reported by Primes, or as evidenced by submitting bids as Primes.

In accordance with requirements of the 49 CFR Part 26, in June 2004 MDOT sent a “Bidders List” letter asking primes to identify DBE and non-DBE firms that submitted quotes as subcontractors in 2003-2004 (actual period April 2003 to April, 2004). The Department received 25 responses.

In the responses, Prime contractors reported 315 firms that had quoted on subcontracts. Of the 315 firms reported as quoting on subcontracts, 28 also bid as Prime Contractors, leaving 287 firms bidding as subcontractors (denominator).

Forty-six (46) of the 315 firms were DBE subs. Of the 46 DBE subs, 2 DBE subs also bid as Primes, leaving 44 DBEs that quoted as subs (numerator).

A total of 4 DBE contractors bid as Primes on MaineDOT projects (numerator). A total of 44 contractors bid as Primes on MaineDOT projects between April, 2003 and April, 2004 (denominator).

BASELINE CALCULATION

Numerator:

DBEs bidding as Primes (General)	4
DBEs quoted as Subcontractors	<u>44</u>
TOTAL	48

Denominator:

Total Primes bidding	44
All subs reported by Primes as quoting	<u>315</u>
TOTAL	359

Baseline Goal: 13.37%

The results of Step 1 indicate that 13.37% is a valid baseline goal under current rules and processes for the determination of eligibility.

Step 2 - Impact to Goal:

In the second tier of its calculation process, the Department assessed the impact of specific factors requiring narrowly tailoring of the DBE program.

1. Capacity limits. No adjustment

The amount of non-DOT work available to contractors in Maine has been relatively steady over the last three years, so there are no anticipated capacity limits.

2. Past participation.

FFY 00	FY 01	FFY 02	FFY 03	FFY 04
4 th quarter 1999	4 th quarter 2000	4 th quarter 2001	4 th quarter 2002	2 nd half 03
1 st quarter 2000	1 st quarter 2001	1 st quarter 2002	1 st quarter 2003	1 st half 04
2 nd quarter 2000	2 nd quarter 2001	2 nd quarter 2002	2 nd quarter 2003	
3 rd quarter 2000	3 rd quarter 2001	3 rd quarter 2002	*	
5.82%	10.4%	7.9%	7.86%	8.5%

Median Past Participation 8.09%

The median past participation is 8.09% is then averaged with the base calculation of 13.37%. The average of the median past participation figure and the Step 1 Base Figure is 10.73

*As a result of federal requirement changes, effective July 16, 2003 , there is no 3rd quarter report for FFY 03. The next report was a six-month report, due in January 2004, which is reported in the FFY 04 column.

3. Census figures. No adjustment

Census: The most current Census data for Maine, from 1997:

All firms

SIC 16 Heavy Construction other than building construction contractors	523
SIC 17 Construction -- Specialty Trades	13,732

Minority-owned firms

SIC 16 Heavy Construction other than building construction contractors	8
SIC 17 Construction -- Specialty Trades	201

Women-owned firms

SIC 16 Heavy Construction other than building construction contractors	40
SIC 17 Construction -- Specialty Trades	927

The Census data indicates minorities own 1.53% of Heavy Construction firms and 1.47% of Specialty Trades firms, and women own 7.65% of Heavy Construction firms and 6.75% of Specialty Trades firms; together, minorities and women own 9.2% of Heavy Construction firms and 8.2% of Specialty Trades firms. Using the Census figures, with minority and women owned firms as the numerator and all firms as the denominator, the percentage is 8.25.

The applicability of the Census figures remains in question:

- ▶ The minority or women owned firms counted in the Census are those firms that are 51% *owned* -- but not necessarily *controlled* -- by minorities or women.
- ▶ Social and economic disadvantage are not addressed in the Census numbers.
- ▶ The Census figures also do not address the size limits of the businesses or the personal net worth of the minority or women owners.

49 CFR Part 26 is clear in stating that to be included in the program, individuals must “demonstrate group membership, ownership, *control*, and *social and economic disadvantage*.”

Also the regulations say the overall goal “must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate...”

Ready, willing and able DBEs are those DBEs providing quotes/bids to Contractors who bid on the Department’s projects, or those DBEs themselves bidding as primes. The Census figures broadly count total Heavy Construction firms and total Specialty Trades firms, but the only demonstrable evidence of the total field of “ready, willing and able” firms are the Department’s Prime Bidders List and the Contractors’ lists of firms providing quotes or bids on their projects.

Additional Considerations:

Disparity Studies: No relevant disparity studies have been conducted within the state’s jurisdiction.

New FFY 2005 DBE Adjusted Goal

Base:	13.37%
Base adjusted for past participation	<u>10.73%</u>

FFY 2005 Goal	10.73%
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Race and Gender-Neutral and Conscious Measures

The Department’s DBE Program for of 10.73% for FFY 05 will be wholly race and gender-neutral. The Department’s goal since the new regulations were issued has been race and gender-neutral. In each year, the Department has either met or exceeded its goal using only race and gender-neutral means of facilitating DBE participation.

The Department uses its DBE Supportive Services allocation wholly to support the DBE Program, and not to pay administrative salaries. The funding supports a number of projects and/or initiatives around the state, to provide certification services, outreach and technical assistance to businesses.

Finally, as stated previously, the Department has no evidence of discrimination on the part of contractors and does have evidence -- as shown in the median goal attainment -- of continuing good faith effort.

Public Participation

The public will be notified by publication the second full week in August in the Kennebec Journal, the State's newspaper of record for legal advertisements. Additionally, the goal notification and methodology will be posted on MaineDOT website. Public comment will be accepted for 45 days following the last date of publication.

The Department engaged a task force comprising representatives from both the prime and sub-contractor -- including DBE -- communities in developing its DBE Program in 1999. Primes and subs also participated in a forum during which the new DBE Program was presented. Following that input, there have been no comments from the public in response to publication of the DBE goal.